**BOARD OF PATENT APPEALS AND INTERFERENCES
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants	:	Howard W. Lutnick, et al.		
Application No.	:	10/015,738	Confirmation No. :	3474
Filed	:	December 12, 2001		
For	:	METHODS AND SYSTEMS FOR TRADING FUTURES CONTRACTS FOR INTANGIBLE ASSETS		
Group Art Unit	:	3691		
Examiner	:	Michael R. Zecher		

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37
AND
REQUEST FOR EXTENSION OF TIME**

Sir:

This is an appeal from the decision of Examiner Michael R. Zecher, Group Art Unit 3691, in the final Office Action of January 18, 2008, rejecting claims 1-27 (hereinafter the "Office Action"). An Amendment after Final to place the claims in condition for appeal was filed on March 24, 2008 and entered on April 2, 2008 by the Examiner. A Notice of Appeal and a Pre-Appeal Conference Request were filed on April 18, 2008. A Pre-Appeal Conference Decision was mailed June 2, 2008.

Applicants herewith request a five month extension of time, which extends the time to file this paper to December 2, 2008.

The Commissioner is hereby authorized to charge the $540.00 Appeal Brief filing fee and the $2,350.00 five-month extension of time fee, as well as any additional fees which may be required, or credit any overpayment, to Deposit Account No. 50-3938.

I. REAL PARTY IN INTEREST

The real party in interest of the present application is CFPH, LLC a corporation organized and existing under the laws of the State of Delaware, U.S.A., having a place of business at 110 East 59th Street, New York, NY 10022. CFPH, LLC is wholly owned by Cantor Fitzgerald, L.P., which is organized and existing under the laws of the State of Delaware, U.S.A., having a place of business at 110 East 59th Street, New York, NY 10022.

II. RELATED APPEALS AND INTERFERENCES

There are no known related appeals or interferences.

III. STATUS OF CLAIMS

The following claims are pending and stand rejected in the present application:

- Independent claims **1, 7, 9, 10, 11, 21, 24, and 26**.
- Dependent claims **2-6, 8, 12-20, 22, 23, 25, 27**

The following claims are being appealed:

- Independent claims **1, 7, 9, 10, 11, 21, 24, and 26**.
- Dependent claims **2-6, 8, 12-20, 22, 23, 25, 27**

The following claims have been cancelled:

- None

The following claims have been withdrawn:

- None

IV. STATUS OF AMENDMENTS

One amendment has been filed after the Final Office Action of January 18, 2008 to place the claims in condition for appeal. The amendment was entered by the Examiner on April 2, 2008. No amendments are pending.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The presently claimed invention(s) generally relate to trading futures contracts.

Specifically, independent claim **1** is directed to a method comprising providing indications designed to permit secondary trading between current holders of futures contracts and prospective holders of the futures contracts. (See, e.g., Specification, Paragraph 10 and Paragraph 24) The indications are provided from a computer-based system that is designed to provide information about a secondary market for the futures contracts. (See, e.g., Specification, Paragraph 23) The futures contacts are based on an underlying obligation that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24)

Independent claim **7** is directed to a computer-readable medium having executable instructions for performing a method. (See, e.g., Specification, Paragraph 10 and Paragraph 20) The method includes causing a system designed to provide information about a secondary market for a plurality of futures contracts to provide indications designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts. (See, e.g., Specification, Paragraph 23) The futures contacts are based on underlying obligations that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24)

Independent claim **9** is directed to a computer-readable medium having executable instructions for performing a method. (See, e.g., Specification, Paragraph 10 and Paragraph 20) The method includes causing a system designed to provide information about a secondary market for a plurality of futures contracts to allow access to a listing of futures contracts. (See, e.g., Specification, Paragraph 21) The method also includes causing the system to allow selection of the at least one futures contract from the listing and causing the system to facilitate a trade including the at least one futures contract. (See, e.g., Specification, Paragraph 28 and Paragraph 29) The futures contacts are based on underlying obligations that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24)

Independent claim **10** is directed to a method comprising accessing a listing of futures contracts associated with a computer-based system that is designed to provide information about a secondary market for a plurality of futures contracts. (See, e.g., Specification, Paragraph 10 and Paragraph 21) The futures contacts are based on underlying obligations that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24) The method also includes selecting a futures contract from the accessed listing and executing a trade that includes the selected futures contract. (See, e.g., Specification, Paragraph 28 and Paragraph 29)

Independent claim **11** is directed to a computer-readable medium having computer-executable instructions for performing a method. (See, e.g., Specification, Paragraph 10 and Paragraph 20) The method includes causing a system to standardize at least one term related to a plurality of futures contracts for a secondary market of futures contracts. (See, e.g., Specification, Paragraph 30) The futures contacts are based on underlying obligations that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24)

The method of dependent claim **13**, which depends from independent claim 1 includes futures contracts based on an underlying obligation that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24) In this instance, the future performance includes at least one or a sports performance and an artistic performance. (See, e.g., Specification, Paragraph 21)

The method of dependent claim **15**, which depends from independent claim 10 includes futures contracts based on an underlying obligation that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24) In this instance, the future performance includes at least one or a sports performance and an artistic performance. (See, e.g., Specification, Paragraph 21)

Independent claim **21** is directed to a method for standardizing information. (See, e.g., Specification, Paragraph 30) The method comprises standardizing, by a computer-based system,

at least one term related to a plurality of futures contracts for a secondary market. (See, e.g., Specification, Paragraph 30) The futures contacts are based on underlying obligations that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24)

Independent claim **24** is directed to a method that comprises providing an indication of a futures contract to a computer-based system that is designed to provide information about a secondary market for a plurality of futures contracts. (See, e.g., Specification, Paragraph 25) The futures contacts are based on underlying obligations that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24)

The method of dependent claim **25**, which depends from independent claim 24 includes futures contracts based on an underlying obligation that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24) In this instance, the future performance includes at least one or a sports performance and an artistic performance. (See, e.g., Specification, Paragraph 21)

Independent claim **26** is directed to a system having computer-readable medium having computer-executable instructions for performing a method. (See, e.g., Specification, Paragraph 10 and Paragraph 20) The method includes causing a system to provide an indication of a futures contract to a computer-based system designed to provide information about a secondary market for a plurality of futures contracts. (See, e.g., Specification, Paragraph 23 and Paragraph 24) The futures contacts are based on underlying obligations that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24) The system also includes a processor configured to execute the instructions. (See, e.g., Specification, Paragraph 10 and Paragraph 20)

Dependent claim **27**, which depends from independent claim 26 includes futures contracts based on an underlying obligation that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and that entitles the same holder to

control a future performance obligation of the obligor. (See, e.g., Specification, Paragraph 24) In this instance, the future performance includes at least one or a sports performance and an artistic performance. (See, e.g., Specification, Paragraph 21)

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds for rejection to be reviewed on appeal are whether:

- Claims **1-12, 14, 16-24, and 26** are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 5,970,479 (hereinafter "Shepherd '479") in view of U.S. Patent No. 7,149,720 (hereinafter "Shepherd '720").
- Claims **13, 15, 25, and 27** are unpatentable under 35 U.S.C. § 103(a) over Shepherd '479 in view of Shepherd '720 and in further view of the article: Adam Schefter, "Pay day for prime-time Broncos Long-term contracts awarded [Rockies Edition];" Denver Post; Denver, Colorado; July 20, 1999, pg. D.01 (hereinafter "Schefter").

VII. ARGUMENT

Appealed claims 1-12, 14, 16-24, and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shepherd '479 in view of Shepherd '720. (See the Office Action, page 3). Appealed claims 13, 15, 25, and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shepherd '479 in view of Shepherd '720 and in further view of Schefter. (See the Office Action, page 3). Claims 1, 7, 9, 10, 11, 21, 24, and 26 are independent.

1. Legal Standard – Prima Facie Showing.

If examination at the initial stage does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of the patent. In re Oetiker, 977 F.2d 1443, 1445 (Fed. Cir. 1992). The initial burden of presenting a *prima facie* case of obviousness is upon the examiner. In re Oetiker, 977 F.2d at 1445. If the examiner fails to establish a *prima facie* case of obviousness, the rejection is improper and will be overturned. In re Rijckaert, 9 F.3d 1531, 1532 (Fed. Cir. 1993); Novamedix Distrib. Ltd. v. Dickinson, 175 F. Supp. 2d 8, 9 (D.D.C. 2001).

2. Legal Standard – Obviousness.

To reject claims under 35 U.S.C. § 103, an examiner must show an unrebutted *prima facie* case of obviousness. In re Rouffet, 149 F.3d 1350, 1355 (Fed. Cir. 1998). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981 (CCPA 1974).

3. First Group 1-12, 14, 16-24, and 26 - No Prima Facie Showing of Obviousness.

a. Argument Summary

The references cited in the Office Action do not teach, suggest, or disclose futures contracts that "*obligate a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor*" or providing "*indications designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts.*"

Accepting the Examiner's arguments as true, without admitting as much, the Examiner fails to fully address all parts of the claims. Specifically, the Examiner does not fully address the limitation of "*providing...indications designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts*" by failing to identify where the cited references teach, suggest, or disclose "*prospective holders*".

Further, the Examiner incorrectly states that the references teach *"indications designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts*". Specifically, the Examiner incorrectly states that such indications are used by the supervisory institutions identified in the cited references; however, because the supervisory institutions do not engage in trading, such indications are not used by the supervisory institutions. Accordingly, the cited references do not teach, suggest, or disclose *"indications designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts*".

Furthermore, the references do not teach, suggest, or disclose futures contracts that "*obligate a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor*".

Specifically, the Examiner incorrectly states that the supervisory institution identified in the cited references have the ability to acts as the "*current holders*" of futures contracts that "*obligate a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor*". However, the supervisory institution acts only as a supervisor of credit between buyers and sellers and does not engage in the secondary trading. Accordingly, the Examiner has failed to identify futures contracts that "*obligate a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor*".

b. Background

Independent claim 1 is representative of claims in this group. Claim 1 is directed to a method comprising providing indications designed to permit secondary trading between current holders of futures contracts and prospective holders of the futures contracts. The indications are provided from a computer-based system that is designed to provide information about a secondary market. The futures contacts are based on an underlying obligation that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor of the futures contract and that entitles the same holder to control a future performance obligation of the obligor.

The Examiner rejected claim 1 under 35 U.S.C. § 103(a) as allegedly being obvious in view of the combination of Shepherd '479 and Shepherd '720. The combination of Shepherd '479 and Shepherd '720 discloses a system for trading risk management contract obligations between two counter parties (See Shepherd '479 Abstract). The risk management contracts have a structure such that a first party pays a second party to enter into the contract and the first party then later receives a payment from the second party if a future event occurs (See Shepherd '479 Column 3, Lines 30-40). A supervisory institution adds a credit function to the market by tracking trades throughout a day, ensuring that sufficient credit is available before a trade occurs, and facilitating settlement of credits and debts at the end of a day (See Shepherd '720 Abstract and Column 6, Lines 1- 20).

c. The Examiner Fails To Address All Claim Limitations

The Examiner fails to address the limitation of "*providing...indications designed to permit secondary trading between current holders of the futures contracts and* ***prospective holders*** *of the futures contracts*". Although as identified above and more fully discussed below, the Examiner incorrectly identifies the role of the supervisory institution of Shepherd '720, even if the Examiner's assertions were correct, the Examiner does not address all the limitations of claim 1. Assuming without admitting that the Examiner's assertions regarding the supervisory institutions of Shepherd '720, described above, are correct, then, the supervisory institution acts as the *current holder* recited in claim 1. Accordingly, the counter parties to a trade in the combination of Shepherd '479 and Shepherd '720 act as the *obligee* and *obligor* recited in claim 1 because the supervisory institution has the ability to control their actions, according to the Examiner.

The Examiner does not even address the *prospective holders* recited in claim 1 under his own interpretation of the combination of Shepherd '479 and Shepherd '720. Instead, the Examiner argues that the *current holder* of claim 1 is taught by the supervisory institution of Shepherd '720 and the *obligee* and *obligor* are taught by the counter parties to trades of a risk management contract taught by Shepherd '479, but the Examiner fails to identify any entity that takes the role of the *prospective holder of the futures contracts* of claim 1.

Because the Examiner has not addressed all the limitation of "providing...indications designed to permit secondary trading between current holders of the futures contracts and **prospective holders** of the futures contracts" of claim 1, the Examiner cannot possibly have made a prima facie case of obviousness of claim 1 and the claims that depend there from. This claim is representative of claims in group 1. The rejections of these claims are similarly improper.

d. The References Do Not Teach Indications As Recited in the Claims

SEPARATE ARGUMENT OF PATENTABILITY

Under the Examiner's interpretation of the references, the combination of Shepherd '479 and Shepherd '720 does not teach, suggest, or disclose "*indications designed to permit secondary trading between current holders of the futures contracts and prospective holders of*

the futures contracts" as recited in claim 1. The combination of Shepherd '479 and Shepherd '720 may suggest indications designed to permit trading between actual parties to the contract. However, because the supervisory institution does not actually engage in any trading, but merely supervises trading to provide credit functionality, no indications are provided that are "*designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts*" as recited in claim 1 under the Examiner's interpretation that places the financial institution in the role of the *current holder*.

Because the Examiner has failed to show that the combination of Shepherd '720 and Shepherd '479 teaches, discloses or suggests "*indications designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts*" when the supervisory institution is in the role of the *current holder* as argued by the Examiner, the Examiner has failed to establish a *prima facie* case of obviousness with respect to this claim, and the claims that depend there from. This claim is representative of claims in group 1. The rejections of these claims are similarly improper.

e. The References Do Not Teach Futures Contracts As Recited in the Claims

SEPARATE ARGUMENT OF PATENTABILITY

In rejecting claim 1, the Examiner correctly states that Shepherd '479 does not teach, suggest, or disclose futures contracts that "*obligate a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor*" as recited in claim 1 (See the Office Action, page 2).

However, the Examiner incorrectly states that the *current holders of the futures contract* as recited in claim 1 are taught by the supervisor institution of Shepherd '720 (See the Office Action, page 3). Particularly, the Examiner states that Shepherd '720 teaches that the supervisory institution has the ability to instruct parties to a trade to make a performance and make a payment based on a transfer of entitlements of a contract at column 5, line 36 to column 6, line 19 and column 65, lines 25-30 (See the Office Action, page 3). However, Shepherd '720 does not teach, suggest, or disclose that the supervisory institutions have such ability and therefore the Examiner has failed to identify the that any contract has the form or any party has the ability to "*obligate a holder of the futures contract to make a future payment obligation of an*

obligee to an obligor and entitles the holder to control a future performance obligation of the obligor".

Rather, the sections of Shepherd '720 discussing the supervisory institution teach that the supervisory institution facilitates credit in a market for risk management contracts that are held by other parties (See Shepherd '720, Abstract). Shepherd '720 does not teach, suggest, or discuss that the supervisory institution has any rights regarding making or controlling payment and performance obligations of a traded contract. In truth, the supervisory institution of Shepherd '720 acts to provide credit services for parties that enter into risk management contracts by maintaining a daily shadow account recording credits and debts made throughout a trading day (See Shepherd '720, Column 6, Lines 1-20). At the end of the trading day, the supervisory institution closes the shadow account so that balances are paid for trades that took place earlier in the day (See Shepherd '720, Column 6, Lines 1-20). Accordingly, the supervisory institutions do not make any future payments and do not control any future performances related to any underlying contracts that are traded.

In contrast to the supervisory institutions limited role as a credit provider, the specification of the present application gives an example of a current holder, stating:

> The trader holding the futures contract at the time of the contract start date must fulfill the terms of the contract to the baseball player. The trader holding the futures contract at that future time may then, however, sell the services of the baseball player to any baseball team, for instance, for greater or less than the contract terms. (See Specification, Paragraph 24)

Clearly, the supervisory institution of Shepherd '720 does not engage in such behavior, but instead is limited to credit functions. Therefore, Shepherd '720 does not teach futures contracts that "*obligate a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor*" as recited in claim 1.

Because the Examiner has failed to show that the combination of Shepherd '720 and Shepherd '479 teach, disclose or suggest the limitation of futures contracts that "*obligate a*

holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor" as recited in claim 1, the Examiner has failed to establish a *prima facie* case of obviousness with respect to this claim, and the claims that depend there from. This claim is representative of claims in group 1. The rejections of these claims are similarly improper.

f. Summary

The Examiner has failed to make a *prima facie* showing of obviousness of claim 1, because the Examiner has not shown that the combination of Shepherd '479 and Shepherd '720 teaches all limitations of claim 1 and has failed to even address all limitations of claim 1. This claim is representative of claims in group 1. The rejections of these claims are similarly improper.

4. Second Group: Claims 13, 15, 25, and 27 - No Prima Facie Showing of Obviousness.

a. Argument Summary

The references do not teach, suggest, or disclose futures contracts that "*obligate a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor*" or providing "*indications designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts.*"

As discussed above, the combination of Shepherd '720 and Shepherd '479 does not teach, suggest or disclose these claim limitations. The additional reference used to reject these claims does not teach, suggest, or disclose these limitations, nor does the Examiner contend that it does. Accordingly, since the additional reference does not provide the missing elements of the combination of Shepherd '479 and Shepherd '720, the references do not teach, suggest, or disclose all limitations of the claims.

b. Background

Dependent claim 13, which depends on claim 1 is representative of this group. Claim 13 is directed to a method comprising providing indications designed to permit secondary trading

between current holders of futures contracts and prospective holders of the futures contracts. The indications are provided from a computer-based system that is designed to provide information about a secondary market. The futures contacts are based on an underlying obligation that obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor of the futures contract and that entitles the same holder to control a future performance obligation of the obligor. The future performance includes at least one or a sports performance and an artistic performance.

The Examiner rejects claim 13 under 35 U.S.C. § 103(a) as allegedly being obvious in view of the combination of Shepherd '479, Shepherd '720 and Schefter. As discussed above, the combination of Shepherd '479 and Shepherd '720 discloses a system for directly trading risk management contract obligations between two counter parties (See Shepherd '479, Abstract). The risk management contracts have a structure such that a first party pays a second party to enter into the contract and the first party then later receives a payment from a second party if a future event occurs (See Shepherd '479, Column 3, Lines 30-40). A supervisory institution provides a credit functionality to the market by tracking trades throughout a day, ensuring that sufficient credit is available before a trade occurs, and facilitating settlement of credits and debts at the end of a day rather than throughout the day (See Shepherd '720, Abstract and Column 6, Lines 1- 20). Schefter discloses that a football team extended contracts for the play of some of its players for additional years (See Schefter, Abstract).

c. Schefter Does Not Teach, Suggest, Or Disclose The Missing Elements Of Shepherd '479 and Shepherd '720

SEPARATE ARGUMENT OF PATENTABILITY

As discussed above, the combination of Shepherd '479 and Shepherd '720 does not disclose futures contracts that "*obligate a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor*" as recited in independent claim 1 from which dependent claim 13 depends, does not disclose providing any indications "*designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts*" as recited in claim 1 from which dependent claim 13 depends, and the Examiner does

not even address the element of a *prospective holder* recited in claim 1 from which dependent claim 13 depends. Accordingly, dependent claim 13 is patentable over that combination based on the patentability of the independent claim from which it depends.

Schefter does not teach, suggest, or disclose the missing element of future contracts that "*obligate a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor*" and therefore claim 13 is patentable over the combination of Shepherd '479, Shepherd '720, and Schefter. Schefter instead discusses only details regarding contracts for players of a particular football team. The contracts are not futures contracts and only involve two parties (i.e., the player and the team). Accordingly, since Schefter does not disclose the missing element of futures contracts that "*obligate a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor,*" claim 13 is patentable over the combination of Shepherd '479, Shepherd '720 and Schefter

Further, Schefter does not teach, suggest, or disclose the missing element of providing an indication "*designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts*" and therefore claim 13 is patentable over the combination of Shepherd '479, Shepherd '720, and Schefter. Schefter instead discloses only information about a contract entered into between players of a football team and the football team. Accordingly, since Schefter does not disclose the missing element of providing an indication "*designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts*," claim 13 is patentable over the combination of Shepherd '479, Shepherd '720 and Schefter.

Furthermore, the Examiner does not address the missing element of a *prospective holder* with respect to Schefter, which, as discussed above is not addressed by the Examiner with respect to Shepherd '479 and Shepherd '720. Accordingly, the examiner has failed to address all elements of the claim and therefore cannot possibly have established a *prima facie* case of obviousness of claim 13.

d. Conclusion

Because the Examiner has failed to show that all the limitations of dependent claim 13 are taught or suggested by the combination of Shepherd '479, Shepherd '720, and Schefter, and has failed to address all claim limitations, the Examiner has failed to establish a *prima facie* case of obviousness with respect to this claim. The rejection of this claim is therefore improper. This claim is representative of claims in group 2. The rejections of these claims are similarly improper.

IX. CONCLUSION

In view of the foregoing, Appellants submit that all of the pending claims are in proper condition for allowance, and the Board is respectfully requested to overturn the Examiner's rejection of these claims.

Respectfully submitted,

/Mark Miller/

November 25, 2008
Date

Mark Miller
Reg. No. 58,234
Attorney for Appellants

X. CLAIMS APPENDIX

1. A method for trading, the method comprising the steps of:

providing, from a computer-based system designed to provide information about a secondary market for a plurality of futures contracts, in which the futures contracts are based on underlying obligations in which the futures contract obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor, indications designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts.

2. The method of claim 1, in which the at least one futures contract comprise at least one a futures contract fund.

3. The method of claim 1, further comprising executing a trade of the at least one futures contract.

4. The method of claim 1, further comprising providing an indication of at least one term of the at least one futures contract.

5. The method of claim 1, further comprising providing an indication of a trading status of the at least one futures contract.

6. The method of claim 1, further comprising providing data related to the at least one futures contract.

7. A computer-readable medium having computer-executable instructions for performing a method comprising:

causing a system designed to provide information about a secondary market for a plurality of futures contracts, to provide indications designed to permit secondary trading between current holders of the futures contracts and prospective holders of the futures contracts, in which the futures contracts are based on underlying obligations in which the futures contract

obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor.

8. The method of claim 1, further comprising providing analysis tools related to the at least one futures contract.

9. A computer-readable medium having computer-executable instructions for performing a method comprising:

causing a system designed to provide information about a secondary market for a plurality of futures contracts to allow access to a listing of futures contracts, to allow selection of the at least one futures contract from the listing, and to facilitate a trade including the at least one futures contract, in which the futures contracts are based on underlying obligations in which the futures contract obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor.

10. A method for trading, the method comprising the steps of:

accessing a listing of futures contracts associated with a computer-based system designed to provide information about a secondary market for a plurality of futures contracts that includes, in which the futures contracts are based on underlying obligations in which the futures contract obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor;

selecting the at least one futures contract from the listing, and

executing a trade including the at least one futures contract.

11. A computer-readable medium having computer-executable instructions for performing a method comprising:

causing a system to standardize at least one term related to a plurality of futures contracts for a secondary market of futures contracts, in which the futures contracts are based on underlying obligations in which the futures contract obligates a holder of the futures contract to

make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor.

12. The method of claim 10, wherein the at least one futures contract includes a futures contracts fund.

13. The method of claim 1, in which the future performance includes at least one of a sport performance and an artistic performance.

14. The method of claim 10, further comprising viewing a term of the at least one futures contracts.

15. The method of claim 10, in which the future performance includes at least one of a sport performance and an artistic performance.

16. The method of claim 21, wherein the at least one term includes at least one of a term of the at least one futures contract.

17. The method of claim 10, further comprising: utilizing analysis tools related to the at least one futures contract.

18. The method of claim 1, wherein making the future payment includes making a payment to the obligor at a date identified by the at least one futures contract.

19. The method of claim 10, wherein executing the trade includes matching of a buy offer and a sell offer.

20. The method of claim 21, wherein the at least one term includes at least one of a term of the obligations.

21. A method for standardizing information, the method comprising the steps of: standardizing, by a computer-based system, at least one term related to a plurality of futures contracts for a secondary market, in which the futures contracts are based on underlying obligations in which the futures contract obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor.

22. The method of claim 10, wherein making the future payment includes making a payment to the obligor at a date identified by the at least one futures contract.

23. The method of claim 21, further comprising categorizing the plurality of futures contracts.

24. A method comprising the steps of:

providing an indication of a futures contract to a computer-based system designed to provide information about a secondary market for a plurality of futures contracts, in which the futures contracts is based on underlying obligations in which the futures contract obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor.

25. The method of claim 24, in which the future performance includes at least one of a sport performance and an artistic performance.

26. A computer-readable medium having computer-executable instructions for performing a method comprising:

causing the system to provide an indication of a futures contract to a computer-based system designed to provide information about a secondary market for a plurality of futures contracts, in which the futures contracts are based on underlying obligations in which the futures contract obligates a holder of the futures contract to make a future payment obligation of an obligee to an obligor and entitles the holder to control a future performance obligation of the obligor; and

a processor configured to execute the instructions.

27. The method of claim 26, in which the future performance includes at least one of a sport performance and an artistic performance.

XI. EVIDENCE APPENDIX

None

XII. RELATED PROCEEDINGS APPENDIX

None